

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2076

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2076, entitled "A Bill for an Act Relating to Leasehold Conversion."

The purpose of Senate Bill No. 2076 is to allow, for a limited time, a fee owner to exclude from taxable income one hundred percent of the gain realized from: (1) the sale of the leased fee interest in a residential house lot or multi-family residential leasehold unit to the lessee of the house lot or unit; or (2) the sale of the leased fee interest in a multi-family residential leasehold property to the association of apartment owners or the residential cooperative corporation of the multi-family residential leasehold property. The total exclusion may not exceed an aggregate cap of \$800,000 for "all taxpayers in the State in any tax year."

Although the provision of an incentive for fee owners to sell the fee interest in their residential real property is an idea that has merit, this bill is objectionable because it provides an inadequate incentive for a significant number of owners to sell their leased fee interest. Moreover, the cost and time necessary to implement the bill for two years far outweigh the benefits. This bill will provide an incentive for only a few fee owners to sell their leased fee interest since the maximum tax savings available under the cap would be \$58,000 per year. On the other hand, to implement the bill, the Department of Taxation will be faced with the administrative burdens of establishing guidelines, training personnel, gearing up for a public information campaign, creating and printing the exemption

form, and reviewing an unknown number of claims.

The aggregate cap frustrates the laudable purpose to promote widespread leasehold conversion. The aggregate cap of \$800,000 is very low and will easily be exceeded by the sale of just one or two single-family homes, or maybe three or four condominium units. This bill provides no criteria or guidelines for the Department of Taxation to determine which of the fee owners would qualify for the exclusion from income of up to \$800,000 "in the aggregate for all taxpayers in the State in any tax year." Consequently, the Department of Taxation will also be faced with tax appeals and litigation regarding this bill.

For the foregoing reasons, I am returning Senate Bill No. 2076 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", with a stylized flourish at the end.

LINDA LINGLE
Governor of Hawaii